

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

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HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1056 - 01/30/2004

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: The Committee on Judiciary at the request of the Department of Game, Fish and Parks

1 FOR AN ACT ENTITLED, An Act to implement an interstate wildlife violator compact.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. An interstate wildlife violator compact is entered with all states legally joining
4 the compact in the form substantially as contained in this Act.

5 Section 2. The purpose of this Act and compact is to provide a means through which
6 participating states may join in a reciprocal program to provide for the fair and impartial
7 treatment of wildlife violators operating within participating states in recognition of the
8 violator's right to due process and the sovereign status of a participating state.

9 Section 3. Terms used in this Act and compact mean:

10 (1) "Citation," any summons, complaint, summons and complaint, ticket, penalty
11 assessment, or other official document that is issued to a person by a wildlife officer
12 or other peace officer for a wildlife violation and that contains an order requiring the
13 person to respond;

14 (2) "Collateral," any cash or other security deposited to secure an appearance for trial



1 in connection with the issuance by a wildlife officer or other peace officer of a
2 citation for a wildlife violation;

3 (3) "Compliance," with respect to a citation, the act of answering a citation through an
4 appearance in a court or tribunal, or through the payment of fines, costs, and
5 surcharges, if any;

6 (4) "Conviction," a conviction, including any court conviction, for any offense that is
7 related to the preservation, protection, management, or restoration of wildlife and that
8 is prohibited by state statute, law, regulation, ordinance, or administrative rule. The
9 term also includes the forfeiture of any bail, bond, or other security deposited to
10 secure appearance by a person charged with having committed any such offense, the
11 payment of a penalty assessment, a plea of nolo contendere, and the imposition of a
12 deferred or suspended sentence by the court;

13 (5) "Court," a court of law, including magistrate's court and the justice of the peace court,
14 if any;

15 (6) "Home state," the state of primary residence of a person;

16 (7) "Issuing state," the participating state that issues a wildlife citation to a violator;

17 (8) "License," any license, permit, or other public document that conveys to the person
18 to whom it was issued the privilege of pursuing, possessing, or taking any wildlife
19 regulated by statute, law, regulation, ordinance, or administrative rule of a
20 participating state;

21 (9) "Licensing authority," the department or division within each participating state that
22 is authorized by law to issue or approve licenses or permits to hunt, trap, fish, or
23 possess wildlife;

24 (10) "Participating state," any state that enacts legislation to become a member of this

1 wildlife compact;

2 (11) "Personal recognizance," an agreement by a person made at the time of issuance of
3 the wildlife citation that such person will comply with the terms of the citation;

4 (12) "State," any state, territory, or possession of the United States, the District of
5 Columbia, the Commonwealth of Puerto Rico, the provinces of Canada, and other
6 countries;

7 (13) "Suspension," any revocation, denial, or withdrawal of any or all license privileges,
8 including the privilege to apply for, purchase, or exercise the benefits conferred by
9 any license;

10 (14) "Terms of the citation," those conditions and options expressly stated in the citation;

11 (15) Wildlife," all species of animals including mammals, birds, fish, reptiles, amphibians,
12 mollusks, and crustaceans, which are defined as wildlife and are protected or
13 otherwise regulated by statute, law, regulation, ordinance, or administrative rule in
14 a participating state. Species included in the definition of wildlife for purposes of this
15 compact are based on state or local law;

16 (16) "Wildlife law," any statute, law, regulation, ordinance, or administrative rule
17 developed and enacted for the management of wildlife resources and the uses thereof;

18 (17) "Wildlife officer," any individual authorized by a participating state to issue a citation
19 for a wildlife violation;

20 (18) "Wildlife violation," any cited violation of a statute, law, regulation, ordinance, or
21 administrative rule developed and enacted for the management of wildlife resources
22 and the uses thereof.

23 Section 4. The Department of Game, Fish and Parks shall enforce the interstate wildlife
24 violator compact and shall do all things within the department's jurisdiction that are necessary

1 to effectuate the purposes and the intent of the compact.

2 Section 5. When issuing a citation for a wildlife violation, a wildlife officer may issue a
3 citation to any person whose primary residence is in a participating state in the same manner as
4 though the person was a resident of the issuing state and may not require such person to post
5 collateral to secure appearance, subject to the exceptions noted in section 6 of this Act, if the
6 officer receives the recognizance of such person that the person will comply with the terms of
7 the citation.

8 Section 6. Personal recognizance is acceptable:

9 (1) If not prohibited by state or local law or the compact manual; and

10 (2) If the violator provides adequate proof of identification to the wildlife officer.

11 Section 7. If a person fails to comply with the terms of a wildlife citation, the person's failure
12 to comply shall be reported to the licensing authority of the issuing state. The report shall be
13 made in accordance with procedures specified by the issuing state and shall contain information
14 as specified in the compact manual as minimum requirements for effective processing by the
15 licensing authority of the violator's home state.

16 Section 8. Upon receipt of the report of noncompliance pursuant to section 7 of this Act, the
17 licensing authority of the issuing state shall transmit to the licensing authority of the violator's
18 home state information related to the failure of the violator to comply with the terms of a
19 citation in the form and content as prescribed in the compact manual.

20 Section 9. Upon receipt of a report from the licensing authority of the issuing state reporting
21 the failure of a violator to comply with the terms of a citation, the licensing authority of the
22 violator's home state shall notify the violator of the failure to comply through personal contact
23 by a wildlife officer or in writing by certified mail. The notice shall afford the violator a period
24 of thirty consecutive days to comply with the terms of the citation. The thirty-day period shall

1 commence from the date of personal contact or from the date of mailing of the notice by
2 certified mail. If the violator fails to comply with the terms of the citation within the thirty-day
3 period, the licensing authority of the home state may then suspend the violator's hunting,
4 trapping, or fishing privileges until satisfactory evidence of compliance with the terms of the
5 citation has been furnished by the issuing state to the home state licensing authority. Due
6 process safeguards shall be accorded and the licensing authority of the home state shall maintain
7 a record of actions taken and shall make reports to issuing states as provided in the compact
8 manual.

9 Section 10. Upon suspending the hunting, trapping, or fishing privileges of any person
10 pursuant to sections 8 and 9 of this Act, the licensing authority of the home state shall notify the
11 person in writing by certified mail. Within twenty days following mailing of the notice of
12 suspension, the person may request a hearing before the South Dakota Game, Fish and Parks
13 Commission on whether the requirements for suspension have been met. Upon request of the
14 person, the commission shall set a hearing as early as practicable. The requesting person may
15 present evidence and arguments at the hearing contesting whether the person failed to comply
16 with the terms of a citation issued for a wildlife violation in a participating state. Grounds other
17 than those listed in this section may not be used to contest the licensing authority's decision to
18 suspend the person's privileges.

19 Section 11. At the hearing, the commission, through its authorized agent, may:

- 20 (1) Administer oaths;
- 21 (2) Issue subpoenas for the attendance of witnesses; and
- 22 (3) Admit all relevant evidence and documents, including notifications from
23 participating states.

24 Following the hearing, the commission, through its authorized agent, may, based on the

1 evidence, affirm, modify, or rescind the suspension of privileges.

2 Section 12. If the person fails to request a hearing within twenty days of mailing of the
3 notice of suspension, or if the suspension of hunting, trapping, or fishing privileges is affirmed
4 by the commission or its authorized agent following a required hearing, the suspension of
5 hunting, trapping, or fishing privileges shall become effective and the person shall surrender any
6 current South Dakota hunting, trapping, or fishing license to the licensing authority within
7 fourteen days.

8 Section 13. All participating states may recognize the suspension of license privileges of any
9 person by any participating state as though the violation resulting in the suspension had occurred
10 in their state and could have been the basis for suspension of license privileges in their state.

11 Section 14. Each participating state shall communicate suspension information to other
12 participating states in form and content as contained in the compact manual.

13 Section 15. If the licensing authority of the home state receives notice of the suspension of
14 a person's hunting, trapping, or fishing privileges by a participating state, the licensing authority
15 may suspend the person's hunting, trapping, or fishing privileges in the home state for the same
16 duration as imposed by the participating state in accordance with § 41-6-75.1. The licensing
17 authority of the home state shall notify the person of the suspension of hunting, trapping, fishing
18 privileges in writing and direct the person to surrender any current South Dakota hunting,
19 trapping, or fishing license to the licensing authority within fourteen days.

20 Section 16. Except as expressly required by this compact, nothing in this compact may be
21 construed to affect the right of any participating state to apply any of its laws relating to license
22 privileges to any person or circumstance or to invalidate or prevent any agreement or other
23 cooperative arrangement between a participating state and a nonparticipating state concerning
24 wildlife law enforcement.

1 Section 17. For the purposes of administering this Act and compact and to serve as a
2 governing body for the resolution of all matters relating to the operation of this compact, a board
3 of compact administrators is established. The board is composed of one representative from
4 each of the participating states to be known as the compact administrator. The compact
5 administrator shall be appointed by the head of the licensing authority of each participating state
6 and serves and is subject to removal in accordance with the laws of the state that the compact
7 administrator represents. A compact administrator may provide for the discharge of duties and
8 the performance of functions as a board member by an alternate. An alternate is not entitled to
9 serve unless written notification of the identity of the alternate has been given to the board.

10 Section 18. Each member of the board of compact administrators is entitled to one vote. No
11 action of the board is binding unless taken at a meeting at which a majority of the total number
12 of the board's votes are cast in favor of the action. Action by the board may be only at a meeting
13 at which a majority of the participating states is represented.

14 Section 19. The board shall elect annually from its membership a presiding officer and a
15 vice presiding officer.

16 Section 20. The board shall adopt bylaws consistent with the provisions of this Act and
17 compact or the laws of a participating state for the conduct of its business and may amend and
18 rescind its bylaws.

19 Section 21. The board may accept for any of its purposes and functions under this compact
20 any and all donations and grants of money, equipment, supplies, materials, and services,
21 conditional or otherwise, from any state, the United States, or any governmental agency, and
22 receive, utilize, and dispose of the same.

23 Section 22. The board may contract with, or accept services or personnel from, any
24 governmental or intergovernmental agency, individual, firm, or corporation, or any private

1 nonprofit organization or institution.

2 Section 23. The board shall formulate all necessary procedures and develop uniform forms
3 and documents for administering the provisions of this compact. All procedures and forms
4 adopted pursuant to board action must be contained in a compact manual.

5 Section 24. This compact becomes effective at such time as it is adopted in a substantially
6 similar form by two or more states.

7 Section 25. Entry into the compact shall be made by resolution of ratification approved by
8 the South Dakota Department of Game, Fish and Parks Commission and submitted to the
9 presiding officer of the board.

10 Section 26. The resolution shall substantially be in the form and content as provided in the
11 compact manual and shall include the following:

- 12 (1) A citation of the authority from which the state is empowered to become a party to
13 this compact;
- 14 (2) An agreement of compliance with the terms and provisions of this compact; and
- 15 (3) An agreement that compact entry is with all states participating in the compact and
16 with all additional states legally becoming a party to the compact.

17 Section 27. The effective date of entry shall be specified by the applying state but may not
18 be less than sixty days after notice has been given by the presiding officer of the board of the
19 compact administrators or by the secretariat of the board to each participating state that the
20 resolution from the applying state has been received.

21 Section 28. A participating state may withdraw from participation in this compact by official
22 written notice to each participating state. Withdrawal does not become effective until ninety
23 days after the notice of withdrawal is given. The notice shall be directed to the compact
24 administrator of each member state. Withdrawal of any state does not affect the validity of this

1 compact as to the remaining participating states.

2 Section 29. The South Dakota Department of Game, Fish and Parks Commission is
3 authorized on behalf of the state to enter or withdraw from the interstate wildlife violator
4 compact pursuant to the terms of sections 24, 25, and 26 of this Act.

5 Section 30. This compact may be amended. Amendments shall be presented in resolution
6 form to the presiding officer of the board of the compact administrators and shall be initiated
7 by one or more participating states.

8 Section 31. Adoption of an amendment requires endorsement by all participating states and
9 becomes effective thirty days after the date of the last endorsement.

10 Section 32. Failure of a participating state to respond to the compact presiding officer within
11 one hundred twenty days after receipt of a proposed amendment constitutes endorsement of the
12 amendment.

13 Section 33. The South Dakota Department of Game, Fish and Parks Commission is
14 authorized to adopt amendments to the interstate wildlife violator compact pursuant to the terms
15 of sections 30, 31, and 32 of this Act.

16 Section 34. This compact shall be liberally construed so as to effectuate its intended
17 purposes. The provisions of this compact are severable, and if any phrase, clause, sentence, or
18 provision of this compact is declared to be contrary to the constitution of any participating state
19 or the United States, or the applicability thereof to any government, agency, individual, or
20 circumstance is held invalid, the validity of the remainder of the compact is not affected thereby.
21 If this compact is held contrary to the constitution of any participating state, the compact
22 remains in full force and effect as to the remaining states and in full force and effect as to the
23 participating state affected as to all severable matters.

24 Section 35. A person whose hunting, trapping, or fishing privileges have been suspended

- 1 and who hunts, traps, or fishes in this state or who applies for or purchases any licenses or
- 2 permits to hunt, trap, or fish in this state, is guilty of a Class 1 misdemeanor.